

MAINE STATE HARNESS RACING COMMISSION
MINUTES OF MEETING
FEBRUARY 25, 2016

Conference Room, Gambling Control Board
Department of Public Safety
45 Commerce Drive, Augusta, ME

Commission Members Present: Barbara Dresser, Chair, Gary Reed and William McFarland
Commission Member Absent: Dirk Duncan

Staff Members Present: Ron Guay, AAG, Henry Jennings, Carol Gauthier, Betty Farr and Miles Greenleaf.

1. **Call the Meeting to Order and Introductions:** Barbara Dresser, Chair
2. **Approval of Minutes:** June 18, July 8, July 9, August 26 and September 9, 2015
Mr. Jennings stated that it would be a good idea to list the penalty classes for the cases listed on the agenda. Commissioner Dresser stated that she would also like to see the levels listed for the cases as well. She asked for a motion on the minutes.
Commissioner McFarland made a motion to approve the minutes for June 18, 2015 as printed and subject to the provisions listed above. Commissioner Reed seconded. Vote 3-0.
Commissioner McFarland made a motion to approve the minutes for July 8, 2015 as printed and subject to the provisions listed above. Commissioner Reed seconded. Vote 3-0.
Commissioner McFarland made a motion to approve the minutes for July 9, 2015 as presented subject to the provisions listed above. Commissioner Reed seconded. Vote 3-0.
Commissioner McFarland made a motion to approve the minutes for September 9, 2015 as printed with the addition of adding later the penalty phase amounts. Commissioner Reed seconded. Vote 3-0.
3. **Review and Approval of Written Decisions and Orders**
Commissioner Dresser asked for a motion for the decision and orders. Commissioner McFarland made a motion to approve the decision and order as written for Joseph Burke complaint numbers 2015 MSHRC 084, 085, 086 and 091. Commissioner Reed seconded. Vote 3-0.
Commissioner McFarland made a motion to approve the decision and order as written and presented for Adam Gray complaint number 2015 MSHRC 090. Commissioner Reed seconded. Vote 3-0.
Commissioner McFarland made a motion to approve the decision and order complaint number 2015 MSHR C093 for Lisa Saindon as presented. Commissioner Reed seconded. Vote 3-0.
4. **Adjudicatory Hearings:**
AAG, Guay asked for a brief opening of the cobalt hearing for the purpose to determine a time frame for paying the fines. He stated that there is a case from the Maine Supreme Court that says when you assess civil violations that are bigger that the ability to pay has to be considered by the agency. One mechanism that would provide a level of legal support to the decision would be to set a time frame for the payment of fines. AAG, Guay stated that Mr. Childs and Mr. Rancourt waived the notice of hearing to reopen the cobalt hearing just for the time to pay the fines. Commissioner Dresser asked for a motion. Commissioner

Reed made a motion to reopen the consolidated cobalt hearing for the sole purpose of considering a time frame for payment. Commissioner McFarland seconded. Vote 3-0. After a brief discussion, Commissioner McFarland made a motion to give the violators 5 months to pay their fine in full. Commissioner Reed seconded. Commissioner McFarland amended his motion to include from the time the decision and order is signed. Commissioner Reed seconded. Vote 3-0.

- a. **RE: Stephen Murchison, Complaint Number 2014 MSHRC 0032.** Mr. Murchison is alleged to have violated MSHRC Rules Chapters 7 and 11. Mr. Murchison was the trainer of record for the horse “Western Rival” on November 15, 2014. A blood sample obtained from Western Rival following the Third Race at Scarborough Downs on November 15, 2014 disclosed the presence of Phenylbutazone.
- Mr. Murchison was present. AAG, Guay as hearing officer stated that on February 24, 2016 the Commission stated that Cobalt was classified as a Class III violation. In Mr. Murchison’s case, the Commission found Cobalt as a Class I. AAG, Guay stated that if the parties agree which are Mr. Jennings and Mr. Murchison to reopen the hearing for the purpose to change the suspension of Mr. Murchison. He stated that the notice would be waived and the penalty would be corrected to reflect the classification made on February 24, 2016 meeting. He asked Mr. Jennings and Mr. Murchison if they both waived the notice. Mr. Jennings and Mr. Murchison both responded with a “yes” to waive the notice. The Commission agreed to reopen the hearing for Mr. Murchison. Commissioner Dresser stated that if she asked for a motion for relief of the previously assessed penalty to reduce a suspension from one year to 90 days and the fine from \$1,000 to \$500 would that get them where they need to be. AAG, Guay stated yes. Commissioner McFarland moved the motion by Commissioner Dresser as stated above. Commissioner Reed seconded. Vote 3-0. Mr. Murchison asked if his license would reflect the change in Class for the Cobalt. Commissioner Dresser stated that the USTA should be notified. AAG, Guay asked the Commissioners “the reason why they are giving the relief is based on a finding that the correct category would be a three and not a one”. Is that correct? All three Commissioners stated “yes”.

AAG, Guay stated that we will proceed with the hearing on complaint number 2014 MSHRC 0032. The reason Mr. Murchison is here today is because if no violation of Chapter 11 had occurred by July 1, 2015, this case would have been dismissed. But because of a Cobalt positive that is why complaint number 2014 MSHRC 0032 is being heard today. AAG, Guay opened the hearing on Mr. Murchison. He qualified the Commissioners. Commission members responded with “no” for both questions. There were no objections with the proceeding so far. Mr. Jennings presented the following exhibits: Exhibit 1, Notice of Hearing 2015; Exhibit 2, Notice of Hearing 2014; Exhibit 3, Trainer Application 2014; Exhibit 4, Race Program; Exhibit 5, Notice of Positive Test 2014; Exhibit 6, Sample Tag; Exhibit 7, Sample Shipment Sheet; Exhibit 8, Certificate of Analysis; Exhibit 9, Minutes of January 8, 2015; Exhibit 10, Decision and Order for 2015 MSHRC 021 and Exhibit 11, Request for Reconsideration. There were no objections by Mr. Murchison for the admission of the exhibits by AAG, Guay. Mr. Murchison did not submit any exhibits. AAG, Guay asked Mr. Murchison if he stipulates to the fact that he was the trainer of record for the horse “Western Rival” on November 15, 2014 and that the horse raced on November 15, 2014, and the horse “Western Rival” finished first in the third race on November 15, 2014 at Scarborough Downs. Mr. Murchison responded “yes” to the stipulations stated above. AAG, Guay asked Mr. Murchison if he admitted that

the horse had an excessive level of Bute in its system on November 15, 2014 and that he violated the trainer responsibility rule on November 15, 2014. Mr. Murchison responded “yes” to the stipulations. AAG, Guay moved to the penalty phase because Mr. Murchison stipulated to the facts. Mr. Murchison testified. AAG, Guay asked for a recommendation from the Department. Mr. Jennings stated that this case would be his first offense in a twelve month period. You need to look at Chapter 17 before May 28, 2015 for this case. He wanted the Commission to know that proper notice was not given to the owner. AAG, Guay stated that if you look at Cobalt, the time frame is during the life of the licensee and the controlled medication is not a Class III. It is in a different category which is during a twelve month period. AAG, Guay closed the hearing for deliberations. Commissioner Dresser asked for discussion. After a brief discussion, the Commissioners stated that they would treat this case as a first offense as a controlled medication. Commissioner McFarland made a motion to zero days suspended and zero fine, and if Mr. Murchison has a subsequent violation of control medication it will result in potentially serious consequences. Commissioner Reed seconded. Vote 3-0.

- b. **RE: Patricia Switzer, Complaint Number 2015 MSHRC 034.** Ms. Switzer is alleged to have violated MSHRC Rules Chapter 7 and 11. Ms. Switzer was the trainer of record for the horse “The Ring King” on May 17, 2015. A blood sample obtained from The Ring King following the Seventh Race at Scarborough Downs on May 17, 2015 disclosed the presence of Erythropoietin. This hearing was continued to the next meeting.

5. Approval of the Maine Harness Horsemen’s Association 2016 Budget

The Commission will review the Maine Harness Horsemen’s Association’s 2016 Budget and establish the assessment rate from the various funds identified in 8 MRS Section 272-B. Linwood Higgins was present and represented the MHHA. He presented to the Commission a handout of their budget for 2016 with a funding rate of 2.60 percent. After a brief discussion, Commissioner Reed made a motion to approve the budget for the Maine Harness Horsemen’s Association as presented. Commissioner McFarland seconded. Vote 3-0.

6. Approval of the 2016 Judges List

The Commission will review the list of Judges for the 2016 racing year and determine whether it’s appropriate to approve the list. Commissioner Dresser asked if the judges listed on the list have made application. Mr. Greenleaf stated no not all of them. Commissioner Dresser asked if the judges on the list attended the training in 2014. Mr. Greenleaf stated that he didn’t know. Commissioner Dresser stated that they should be licensed before we approve them. Mr. Jennings stated that in Chapter 3, Section 1 the condition is that they must attend a Commission approved educational seminar. Commissioner Dresser stated that they could approve the list as presented with a few contingencies. One being that all judges will be licensed before acting and that Mr. Greenleaf will provide them with a list of who is in compliance; and that the training is provided so that they are in compliance with the rule. Commissioner Reed made a motion to approve the list of judges with the contingencies outlined by Commissioner Dresser. Commissioner McFarland seconded. Vote 3-0.

7. Other Business

None.

8. Executive Director's Report

Mr. Jennings stated that he is working on the Funds and Fair Report as well as the Annual Report. He also stated that the Department is looking at new research on human drug testing.

Mr. Jennings stated that he was trying to figure out the staffing needs at Scarborough Down and veterinarians needed at Bangor.

Commissioner Dresser asked to have a dismissal letter sent for Mr. Eugley for complaint number 2015 MSHRC 004 and complaint number 2014 MSHRC 034.

Commissioner Dresser asked what the plan is about Ronald Cushing and Robert Gray cases.

Mr. Jennings stated that the plan is to hear the cases next month including the Cobalt cases.

Commissioner Dresser asked about the status of the Association purse trust account audit.

Ms. Farr stated that the deadline to receive all the statements was February 15, 2016 and they are missing three.

Commissioner Dresser asked about the policy on exclusion. Mr. Jennings stated that the language has been drafted. It needs to be fine-tuned.

9. Public Comment

Commissioner Dresser asked for any public comment.

Ms. Perkins stated that they would like to hire a vet tech to help with the Sire Stake Races but there was no contract in place.

Ms. Perkins stated that 2 years ago they had an ADHOC committee to review the rules and they have not brought them forward yet.

Ms. Perkins also stated that these trainers will be getting set down and she suggests that in order for any horse to be transferred to another trainer it needs to be Ok'd by the

Commission. She also stated that horses coming into the state from other jurisdictions need to be clean of Cobalt.

Ms. Perkins stated that this year is the first time for the Sire Stake Races that they have had more trotters than pacers.

Mr. Cobbett stated that they will hold qualifiers on March 16, 19, 23 and 26, 2016.

10. Future Meeting Date March 23, 2016

11. Adjourn

11:10 a.m.